old stockholders exists, that they may prevent any impairment of their interest and influence in the corporation, or change in the relative value of their holdings. *Gray* v. *Portland Bank,* 3 Mass. 364, 3 Am. Dec. 156; *Humboldt Driving Park Ass'n.* v. *Stevens,* 34 Neb. 528, 33 Am. St. Rep. 654; *Jones* v. *Concord and Montreal R. Co.,* 67 N. H. 119, 130, 38 Atl. 120, 68 Am. St. Rep. 650; *Electric Co. of America* v. *Edison Electric Illuminating Co.,* 200 Pa. St. 516, 50 Atl. 164. But where the new issue is a mere stock dividend, the entire stock as then increased represents no more capital than the original shares had done, and the new shares are not owned by the corporation, but as soon as created, become the individual property of the owners of the old shares, in proportion to their holdings. *Gibbons* v. *Mahon,* 4 Mackey (D. C.) 130, 136, s. c. 136 U. S. 549; *Knapp* v. *Publishers George Knapp & Co.,* 127 Mo. 53, 72, 29 S. W. 885. This right is a benefit or interest which attaches to the stock as inherent in the shares in their very creation. *Atkins* v. *Albree et al.,* 94 Mass. 359, 361; but is limited to an increase of stock and does not extend to shares bought in by the corporation and held as assets by it. *State* v. *Smith,* 48 Vt. 266; *Crosby* v. *Stratton,* 17 Col. App. 212, 68 Pac. 130. In the principal case, as the issuance of the convertible bonds would deprive the complainant of his prior right in the new issue of stock, the action of the directors being violative of this was properly enjoined. Such bonds, however, are common at the present day, being issued under statutory authority. See *Chaffee* v. *Middlesex R. R. Co.,* 146 Mass. 224, 16 N. E. 34. In *Belmont* v. *Erie Ry. Co.,* 52 Barb. (N. Y.) 637, the right to issue such bonds was sustained, but the only attack on their validity there was that such an issue would increase the amount of capital stock beyond that fixed by the charter, the power to issue the bonds having been granted by statute, Cf. *Wood* v. *Whelen,* 93 Ill. 153, 164. However, even though the option cannot be enforced, the bonds are valid. *Wood* v. *Whelen,* supra. The validity of convertible bonds was assumed in *Target et al.* v. *Northern Central Ry. Co.,* 29 Md. 557; *Sturges* v. *Stetson,* 1 Bissel 246, 23 Fed Cas. No. 13568; *Sutliff* v. *Cleveland & Mahoning R. Co.,* 24 Ohio St. 147; *Denny et al* v. *Cleveland & Pitts. R. Co.,* 28 Ohio St. 108; *Muhlenberg* v. *Philadelphia & Reading R. Co.,* 47 Pa. St 16.

COVENANTS—TECHNICAL AND SUBSTANTIAL BREACH.—A sold land to B with a covenant of warranty to cut and remove timber and B conveyed to C with a similar warranty. A, however, had made prior sale of the timber to D. C went on the land and cut a portion of the timber, whereupon D brought an action against him and recovered damages. A brought foreclosure proceeding on the purchase money mortgage to which B and C were made parties. They set up the judgment of D by way of counter-claim. *Held,* that this could not be done since the covenant was broken as soon as made and the breach would not run with the land. *Turner et al.* v. *Lawson* (1905), — Ala. —, 39 So. Rep. 755.

As a general proposition a breach of a covenant does not run with the land. *Ladd* v. *Noyes,* 137 Mass. 151; *Provident Co.* v. *Fiss,* 147 Pa. St. 232; *Clement* v. *Bank,* 61 Vt. 298; *Mygatt* v. *Coe,* 124 N. Y. 212; *Wesco* v. *Kern,* 36 Ore. 433. A few of the United States, however, follow the English doc-

trine and hold that even such covenants as are technically broken upon execution and delivery of the deed may be sued on by a remote assignee where the substantial damage occurs during his tenure. See *Mascal's Case,* 1 Leon, 62; *King* v. *Jones,* 1 Marsh, 107, 5 Taunt. 418; *Kingdom* v. *Nottle,* 1 M. & S. 355. For American cases see *Richard* v. *Bent,* 59 Ill. 38, 74 Am. Rep. 1; *Coleman* v. *Lyman,* 42 Ind. 289; *Martin* v. *Baker,* 5 Blkf. (Ind.) 232; *Kimball* v. *Bryant,* 25 Minn. 496; *Chambers* v. *Smith,* 23 Mo. 174; *Dickson* v. *Desire,* 23 Mo. 151, 66 Am. Dec. 661; *Lawless* v. *Colliers,* 19 Mo. 480; *Winningham* v. *Pennock,* 36 Mo. App. 688; *Betz* v. *Bryan,* 39 Ohio St. 320; *Devore* v. *Sunderland,* 17 Ohio 52, 49 Am. Dec. 442; *Backus* v. *McCoy,* 3 Ohio 211, 17 Am. Dec. 585; *Hall* v. *Plain,* 14 Ohio St. 417; *Brisbane* v. *McCrady,* 1 Nott. & M. (S. C.) 104, 9 Am. Dec. 676. This latter doctrine seems to work out more substantial justice since a covenant is not really broken until damages have been suffered.

DEEDS—CONDITION SUBSEQUENT—AGREEMENT TO SUPPORT.—Where a woman, seventy-two years of age, deeded her farm to her son on consideration that he support her, which he failed to do, and later contracted to sell the farm to another, making no provision for her support, it was *Held,* that this was a condition subsequent, and that the grantor could submit to the contract of sale without jeopardizing her right to rescind for breach of the condition. *Gall* v. *Gall* (1905), — Wis. —, 105 N. W. Rep. 953.

While courts are more favorable to covenants than conditions, they usually construe agreements for support, maintenance, etc., of aged people to be conditions in order to hold the promisor to a strict account and guarantee unquestionable care of the promisee. *Richter* v. *Richter,* 111 Ind. 456, 12 N. E. 698; *Soper* v. *Guernsey,* 71 Pa. St. 219; *Tracy* v. *Hutchinson,* 36 Vt. 225; *Glocke* v. *Glocke,* 113 Wis. 303. And as far as the plaintiff having a right to set aside the deed after submitting to a contract of sale by the grantee, the court said: "It was neither advisable nor necessary for her to enter into a contest with the owner of the option." Whatever the law may be the court seem to have rightly drawn this conclusion because of "her patient endurance of the defendant's wrongs." Courts are after all courts of justice though this fact is often placed second to rules of law and logical analysis. *Knutson* v. *Bostark,* 99 Wis. 469.

DIVORCE—ALIMONY—DECREE—MOTION TO VACATE.—The wife was granted a divorce *a mensa et thoro,* custody of the children and separate maintenance. The husband was absent from the state and was not personally served with process. His property in the state was sequestered to enforce the decree. On a petition by the huband asking that the decree be set aside and the bill dismissed, *Held,* that he was not entitled to any relief. *McGuinness* v. *McGuinness* (1906), — N. J. Eq. —, 62 Atl. Rep. 937.

In so far as the decree affected merely the status of the parties it would no doubt be good, at least within the jurisdiction, without personal service. In cases of absolute divorce the decree as to alimony would not be binding upon the husband when he was served with only constructive notice of the suit and the decree would not bind even his property within the state.